

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation/Petition )  
to Revoke Probation Against: )**

**Alan Bonsteel, M.D. )**

**Case No. 800-2015-011891**

**Physician's and Surgeon's )  
Certificate No. A 50164 )**

**Respondent )  
\_\_\_\_\_ )**

**DECISION**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on November 16, 2017.**

**IT IS SO ORDERED: October 17, 2017.**

**MEDICAL BOARD OF CALIFORNIA**



**Jamie Wright, J.D., Chair  
Panel A**

1 XAVIER BECERRA  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 DAVID CARR  
Deputy Attorney General  
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*Attorneys for Complainant*

7  
8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation/Petition to  
Revoke Probation Against:

12 **ALAN EDWARD BONSTEEL, M.D.**

13 294 Cecilia Way  
14 Tiburon, CA 94920

15 Physician's and Surgeon's Certificate  
No. A50164

16 Respondent.

Case No. 800-2015-011891

OAH No. 2017040790

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

17  
18  
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
20 interest and the responsibility of the Medical Board of California of the Department of Consumer  
21 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order  
22 which will be submitted to the Board for approval and adoption as the final disposition of the  
23 Accusation and Petition to Revoke Probation.

24 **PARTIES**

25 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
26 of California (Board). She brought this action solely in her official capacity and is represented in  
27 this matter by Xavier Becerra, Attorney General of the State of California, by David Carr, Deputy  
28 Attorney General.

2. Alan Edward Bonsteel, M.D., is represented in this proceeding by attorneys Rebecca Hoyes and Mitchell J. Green, of Nossaman LLP, 50 California Street, 34th Floor, San Francisco, CA 94111.

3. On November 20, 1991, the Board issued Physician's and Surgeon's Certificate No. A50164 to Alan Edward Bonsteel, M.D. (Respondent). On December 7, 2011, Accusation No. 12-2009-200652 was filed with the Board, alleging Respondent's unprofessional conduct. By a Decision and Order of May 7, 2013, the Board adopted a stipulated resolution to that Accusation which revoked Respondent's Physician's and Surgeon's Certificate but stayed the revocation for a probationary period of five years, with terms and conditions.

## JURISDICTION

4. Accusation and Petition to Revoke Probation No. 800-2015-011891 was filed before the Board and is currently pending against Respondent. The Accusation and Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on February 21, 2017. Respondent timely filed his Notice of Defense contesting the Accusation and Petition to Revoke Probation.

5. A copy of Accusation and Petition to Revoke Probation No. 800-2015-011891 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation/Petition to Revoke Probation No. 800-2015-011891. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation/Petition to Revoke Probation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an

adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

#### CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation and Petition to Revoke Probation No. 800-2015-011891, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation/Petition to Revoke Probation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and Petition to Revoke Probation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

#### RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

#### CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary

1 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
2 action between the parties, and the Board shall not be disqualified from further action by having  
3 considered this matter.

4 14. The parties understand and agree that Portable Document Format (PDF) and facsimile  
5 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
6 signatures thereto, shall have the same force and effect as the originals.

7 15. In consideration of the foregoing admissions and stipulations, the parties agree that  
8 the Board may, without further notice or formal proceeding, issue and enter the following  
9 Disciplinary Order:

10 **DISCIPLINARY ORDER**

11 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A50164, issued  
12 to Respondent Alan Edward Bonsteel, M.D., is revoked. However, the revocation is stayed and  
13 Respondent is placed on probation for one (1) year, to commence and run consecutively to the  
14 current period of probation imposed in Case No. 12-2009-200652, which became effective on  
15 June 6, 2013. All Terms and Conditions imposed in Case No. 12-2009-200652 remain in full  
16 force and effect, with the exception of the particular Terms and Conditions imposed in this order  
17 in paragraphs 2 ("Education Course"); 3 ("Solo Practice Prohibition"); and 4 (Withdrawal of  
18 Petition for Penalty Relief), below.

19 1. **REVOCATION - SINGLE CAUSE.** Certificate No. A50164 issued to Respondent  
20 Alan Edward Bonsteel, M.D. remains revoked and one (1) additional year of probation is hereby  
21 imposed, to commence and run consecutively to the five (5) year period of probation which began  
22 June 6, 2013 and is scheduled to expire on June 5, 2018; Respondent's new one-year term of  
23 probation shall commence immediately upon the expiration of his current term of probation.

24 2. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this  
25 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee  
26 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours  
27 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at  
28 correcting any areas of deficient practice or knowledge and shall be Category I certified. The

educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. In addition, Respondent shall, within 60 days of the effective date of this Order, enroll in a Board approved course/program of not less than 16 CME hours in the area of current diagnostic procedure in general medicine and satisfactorily complete that program/course. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 25 hours of CME required of all physicians and surgeons, and of an additional 40 hours in satisfaction of the additional CME condition herein, and satisfaction of the one-time obligation to complete not less than 16 additional hours above those requirements in fulfillment of the approved course/program in diagnostic procedures in general medicine.

3. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an

1 appropriate practice setting is established.

2 Notwithstanding the above, during the one year of probation added pursuant to this  
3 Stipulation, Respondent may practice as the sole physician practitioner at a clinic or office  
4 location so long it is in affiliation with a physician practice group or other affiliation pursuant to  
5 which Respondent's medical care is subject to review and evaluation by other physicians. Under  
6 no circumstances may Respondent practice as a solo practitioner not subject to review and  
7 evaluation of his office practice by other affiliated physicians.

8 4. WITHDRAWAL OF PENDING PETITION FOR PENALTY RELIEF. Respondent  
9 agrees that he shall withdraw the Petition for Penalty Relief he filed with the Board July 15, 2015,  
10 by which Respondent sought termination of his probationary period. Respondent further agrees  
11 that he shall not submit a Petition for Penalty Relief by which he requests termination of the  
12 probation granted by this Order for at least one (1) year from the effective date of this Order.

13 The following STANDARD CONDITIONS OF PROBATION shall remain in full force  
14 and effect for the cumulative period of probation imposed by this Order:

15 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
16 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
17 Chief Executive Officer at every hospital where privileges or membership are extended to  
18 Respondent, at any other facility where Respondent engages in the practice of medicine,  
19 including all physician and locum tenens registries or other similar agencies, and to the Chief  
20 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
21 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
22 calendar days.

23 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

24 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
25 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
26 advanced practice nurses.

27 7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
28 governing the practice of medicine in California and remain in full compliance with any court

1 ordered criminal probation, payments, and other orders.

2 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
3 under penalty of perjury on forms provided by the Board, stating whether there has been  
4 compliance with all the conditions of probation.

5 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
6 of the preceding quarter.

7 9. GENERAL PROBATION REQUIREMENTS.

8 Compliance with Probation Unit

9 Respondent shall comply with the Board's probation unit.

10 Address Changes

11 Respondent shall, at all times, keep the Board informed of Respondent's business and  
12 residence addresses, email address (if available), and telephone number. Changes of such  
13 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
14 circumstances shall a post office box serve as an address of record, except as allowed by Business  
15 and Professions Code section 2021(b).

16 Place of Practice

17 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
18 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
19 facility.

20 License Renewal

21 Respondent shall maintain a current and renewed California physician's and surgeon's  
22 license.

23 Travel or Residence Outside California

24 Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
25 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
26 (30) calendar days.

27 In the event Respondent should leave the State of California to reside or to practice,  
28 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of



1 departure and return.

2 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
3 available in person upon request for interviews either at Respondent's place of business or at the  
4 probation unit office, with or without prior notice throughout the term of probation.

5 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
6 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
7 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
8 defined as any period of time Respondent is not practicing medicine as defined in Business and  
9 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
10 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
11 Respondent resides in California and is considered to be in non-practice, Respondent shall  
12 comply with all terms and conditions of probation. All time spent in an intensive training  
13 program which has been approved by the Board or its designee shall not be considered non-  
14 practice and does not relieve Respondent from complying with all the terms and conditions of  
15 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
16 on probation with the medical licensing authority of that state or jurisdiction shall not be  
17 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
18 period of non-practice.

19 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
20 months, Respondent shall successfully complete the Federation of State Medical Boards Special  
21 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
22 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
23 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

24 Respondent's period of non-practice while on probation shall not exceed two (2) years.

25 Periods of non-practice will not apply to the reduction of the probationary term.

26 Periods of non-practice for a Respondent residing outside of California will relieve  
27 Respondent of the responsibility to comply with the probationary terms and conditions with the  
28 exception of this condition and the following terms and conditions of probation: Obey All Laws;

1 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
2 Controlled Substances; and Biological Fluid Testing.

3 12. COMPLETION OF PROBATION. Respondent shall comply with all financial  
4 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
5 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
6 be fully restored.

7 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
8 of probation is a violation of probation. If Respondent violates probation in any respect, the  
9 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
10 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
11 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
12 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
13 the matter is final.

14 14. LICENSE SURRENDER. Following the effective date of this Decision, if  
15 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
16 the terms and conditions of probation, Respondent may request to surrender his or her license.  
17 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
18 determining whether or not to grant the request, or to take any other action deemed appropriate  
19 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
20 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
21 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
22 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
23 application shall be treated as a petition for reinstatement of a revoked certificate.

24 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
25 with probation monitoring each and every year of probation, as designated by the Board, which  
26 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of

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08/23/2017 11:03AM FAX 4153982438

NOSSAMAN

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California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Rebecca Hoyes and Mitchell J. Green. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: Aug 23, 2017

Alan Edward Bonsteel, M.D.  
Respondent

I have read and fully discussed with Respondent Alan Edward Bonsteel, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_

REBECCA HOYES  
Attorney for Respondent

///

///

Alan Bonsteel M.D.  
Wed. Aug. 23, 2017

1 California and delivered to the Board or its designee no later than January 31 of each calendar  
2 year.

3  
4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
6 discussed it with my attorney, Rebecca Hoyes and Mitchell J. Green. I understand the stipulation  
7 and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated  
8 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
9 bound by the Decision and Order of the Medical Board of California.

10  
11 DATED: \_\_\_\_\_

12 ALAN EDWARD BONSTEEL, M.D.  
13 *Respondent*

14 I have read and fully discussed with Respondent Alan Edward Bonsteel, M.D. the terms  
15 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
16 Order. I approve its form and content.

17  
18 DATED: 8/24/17

19   
20 REBECCA HOYES  
21 *Attorney for Respondent*

22 ///

23 ///

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: *August 29, 2017*

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
JANE ZACK SIMON  
Supervising Deputy Attorney General

*David Carr*  
DAVID CARR  
Deputy Attorney General  
*Attorneys for Complainant*

**Exhibit A**

**Accusation and Petition to Revoke Probation No. 800-2015-011891**

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Feb 21 20 17  
BY D. Richards ANALYST

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BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition  
to Revoke Probation Against

**ALAN EDWARD BONSTEEL, M.D.**

294 Cecilia Way  
Tiburon, CA 94920

Physician's and Surgeon's Certificate  
No. A50164

Respondent.

Case No. 800-2015-011891

OAH Case No.

ACCUSATION AND PETITION TO  
REVOKE PROBATION

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer ("Complainant") brings this Accusation and Petition to Revoke Probation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs. On November 20, 1991, the Medical Board of California issued Physician's and Surgeon's Certificate Number A50164 to Alan Edward Bonsteel, M.D. ("Respondent"). The Physician's and Surgeon's Certificate was in effect at all times relevant to the charges brought herein and will expire on July 31, 2017, unless renewed.

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2. In a disciplinary action entitled "In the Matter of Accusation Against Alan Edward Bonsteel, M.D.," Case No. 12-2009-200652, the Medical Board of California issued a Decision, effective June 6, 2013, in which Respondent's Physician's and Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's Certificate was placed on probation for a period of five (5) years with certain terms and conditions. A copy of that Decision is attached as Exhibit A and is incorporated by reference.

## JURISDICTION

3. This Accusation and Petition to Revoke Probation is brought before the Medical Board of California (“Board”), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by



1 existing law, is deemed public, and shall be made available to the public by the board pursuant to  
2 Section 803.1.”

3 5. Section 2234 of the Code, states:

4 “The board shall take action against any licensee who is charged with unprofessional  
5 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
6 limited to, the following:

7 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
8 violation of, or conspiring to violate any provision of this chapter.

9 “(b) Gross negligence.

10 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
11 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
12 the applicable standard of care shall constitute repeated negligent acts.

13 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
14 for that negligent diagnosis of the patient shall constitute a single negligent act.

15 “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
16 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
17 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
18 applicable standard of care, each departure constitutes a separate and distinct breach of the  
19 standard of care.

20 “(d) Incompetence.

21 “(e) The commission of any act involving dishonesty or corruption which is substantially  
22 related to the qualifications, functions, or duties of a physician and surgeon.

23 “(f) Any action or conduct which would have warranted the denial of a certificate.

24 “(g) The practice of medicine from this state into another state or country without meeting  
25 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
26 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
27 proposed registration program described in Section 2052.5.

1 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
2 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
3 who is the subject of an investigation by the board.”

4 6. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain  
5 adequate and accurate records relating to the provision of services to their patients constitutes  
6 unprofessional conduct.”

7 7. All of the acts described herein occurred within the state of California.

#### 8 FIRST CAUSE FOR DISCIPLINE

##### 9 (Unprofessional Conduct)

10 8. Respondent’s license is subject to discipline for unprofessional conduct, in that his  
11 care and treatment of patient MRN<sup>1</sup> included departures from the standard of care constituting  
12 incompetence in violation of section 2234(d).

13 9. Respondent first provided care for patient MRN on August 9, 2014. The patient was  
14 complaining of vaginal irritation. After a physical examination, Respondent diagnosed MRN as  
15 suffering from vaginal candidiasis, a yeast infection, and prescribed an oral antifungal medication.  
16 Respondent also referred MRN to a counselor in the case management section of the clinic to  
17 promote better self treatment and control of MRN’s diabetes. Respondent directed MRN to  
18 return for a follow-up appointment in one week but MRN did not return for that scheduled  
19 appointment.

20 10. Patient MRN next presented to Respondent on February 20, 2015, complaining of  
21 pelvic pain, discharge, and a “sensation of mass in vagina.” Despite an entry in the electronic  
22 medical record of Respondent’s physical examination of MRN that states “vagina normal, no  
23 discharge or lesion,” Respondent’s notes for that visit also state a finding of a “(b)aseball-sized  
24 Bartholin’s (sic) gland abscess, mildly fluctuant, painful to palpation.” Respondent referred MRN  
25 for an immediate assessment at the emergency department of the nearby critical care hospital.  
26

---

27 <sup>1</sup> The patient is identified herein by her initials to preserve patient confidentiality. The  
28 patient’s full name will be provided to Respondent in discovery.

1        11. Patient MRN was seen that same day in the hospital's emergency department. The  
2 emergency department attending physician was informed by a telephone call regarding patient  
3 MRN from Respondent that Respondent had found a baseball-sized Bartholin's gland cyst or  
4 abscess in the patient. The attending physician's physical examination of MRN revealed no  
5 evidence of a vaginal cyst or abscess. MRN was referred directly to the offices of the on-call  
6 gynecologist. That gynecologist's examination also failed to find any abscess or cyst affecting  
7 MRN's Bartholin's gland. The diagnosis following the gynecologist's examination of MRN was  
8 "unspecified vaginitis and vulvovaginitis."

9        12. Respondent has subjected his license to discipline for unprofessional conduct in that  
10 his diagnosis of a baseball-sized Bartholin's gland abscess or cyst when no such condition existed  
11 was a departure from the standard of care evidencing incompetence, unprofessional conduct as  
12 described in section 2234(d).

13                                    SECOND CAUSE FOR DISCIPLINE

14                                    (Failure to Maintain Accurate Records)

15        13. The allegations of paragraphs 8 through 10 above are incorporated herein as if set out  
16 in full. Respondent has subjected his license to discipline for unprofessional conduct in that his  
17 contradictory entries in the medical record for patient MRN violated section 2266.

18                                    CAUSE TO REVOKE PROBATION

19                                    (Violation of Laws)

20        14. The allegations of paragraphs 8 through 12 above are incorporated herein as if set out  
21 in full. At all times after the effective date of Respondent's probation, Condition Ten of the terms  
22 of probation required that Respondent obey all laws, expressly including the rules governing the  
23 practice of medicine in California.

24        15. Respondent's probation is subject to revocation because he failed to comply with  
25 Probation Condition Ten, in that the Causes for Discipline presented herein constitute violations  
26 of the rules which govern the practice of medicine in California.

27        ///

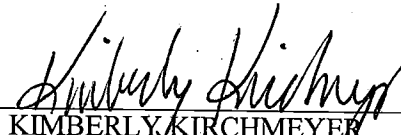
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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Medical Board of California issue a decision:

- 4 1. Revoking the probation that was granted by the Medical Board of California in Case  
5 No. 12-2009-200652 and imposing the disciplinary order that was stayed, thereby revoking  
6 Physician's and Surgeon's Certificate No. A50164, issued to Alan Edward Bonsteel, M.D.;
- 7 2. Revoking, suspending or denying approval of Alan Edward Bonsteel, M.D.'s  
8 authority to supervise physician's assistants, pursuant to section 3527 of the Code;
- 9 3. Ordering Alan Edward Bonsteel, M.D., if placed on probation, to pay the Medical  
10 Board of California the costs of probation monitoring; and
- 11 4. Taking such other and further action as deemed necessary and proper.
- 12
- 13

14 DATED: February 21, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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# **Exhibit A**

**Decision and Order**

**Medical Board of California Case No. 12-2009-200652**

**Barbara Yaroslavsky, Chair**  
**Panel A**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 DAVID CARR  
Deputy Attorney General  
4 State Bar No. 131672  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5538  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 12-2009-200652

11 **ALAN EDWARD BONSTEEL, M.D.**

OAH No. 2012100039

12 294 Cecilia Way  
13 Tiburon, CA 94920

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 Physician's and Surgeon's Certificate No.  
15 A50164

16 Respondent.

17  
18  
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
20 interest and the responsibility of the Medical Board of California of the Department of Consumer  
21 Affairs (Board), the parties hereby agree to the following Stipulated Settlement and Disciplinary  
22 Order which will be submitted to the Board for approval and adoption as the final disposition of  
23 the Accusation.

24 **PARTIES**

25 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of  
26 California. She brought this action solely in her official capacity and is represented in this matter  
27 by Kamala D. Harris, Attorney General of the State of California, by David Carr, Deputy  
28 Attorney General.

2. Respondent Alan Edward Bonsteel, M.D. (Respondent) is represented in this proceeding by attorney Timothy J. Aspinwall, Nossaman LLP, 915 L St. Suite 1000, Sacramento, CA 95814

3. On or about November 20, 1991, the Medical Board of California issued Physician's and Surgeon's Certificate No. A50164 to Alan Edward Bonsteel, M.D. Unless renewed, the license will expire July 31, 2013.

## JURISDICTION

4. Accusation No. 12-2009-200652 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 7, 2011. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 12-2009-200652 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 12-2009-200652. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.



1 CULPABILITY

2 9. For the purpose of resolving the Accusation without the expense and uncertainty of  
3 further proceedings, Respondent does not contest that, at an administrative hearing, Complainant  
4 could establish a *prima facie* case with respect to the allegations in the Accusation and that his  
5 license is therefore subject to disciplinary action.

6 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
7 discipline and he agrees to be bound by the Board's probationary terms as set forth in the  
8 Disciplinary Order below.

9 RESERVATION

10 11. The admissions made by Respondent herein are only for the purposes of this  
11 proceeding, or any other proceedings in which the Board or other professional licensing agency is  
12 involved, and shall not be admissible in any other criminal or civil proceeding.

13 CONTINGENCY

14 12. This stipulation shall be subject to approval by the Board. Respondent understands  
15 and agrees that counsel for Complainant and Board staff may communicate directly with the  
16 Board regarding this stipulation and settlement, without notice to or participation by Respondent  
17 or his counsel. By signing the stipulation, Respondent understands and agrees that he may not  
18 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers  
19 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the  
20 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this  
21 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
22 be disqualified from further action by having considered this matter.

23 13. The parties understand and agree that facsimile copies of this Stipulated Settlement  
24 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
25 effect as the originals.

26 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
27 the Board may, without further notice or formal proceeding, issue and enter the following  
28 Disciplinary Order:

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A50164, issued  
3 to Respondent Alan Edward Bonsteel, M.D., is revoked. However, the revocation is stayed and  
4 Respondent is placed on probation for five (5) years on the following terms and conditions.

5 1. **CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO**  
6 **RECORDS AND INVENTORIES.** Respondent shall, during probation, maintain a record of all  
7 controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent,  
8 and any recommendation or approval which enables a patient or patient's primary caregiver to  
9 possess or cultivate marijuana for the personal medical purposes of the patient within the meaning  
10 of Health and Safety Code section 11362.5, showing all the following: 1) the name and address of  
11 the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the  
12 indications and diagnosis for which the controlled substances were prescribed or recommended.

13 Respondent shall keep these records in a separate file or ledger, in chronological order. All  
14 records and any inventories of controlled substances shall be available for immediate inspection  
15 and copying on the premises by the Board or its designee at all times during business hours and  
16 shall be retained for the entire term of probation.

17 2. **PRESCRIBING PRACTICES COURSE.** Within 60 calendar days of the effective  
18 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the  
19 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,  
20 University of California, San Diego School of Medicine (Program), approved in advance by the  
21 Board or its designee. Respondent shall provide the Program with any information and  
22 documents that the Program may deem pertinent. Respondent shall participate in and  
23 successfully complete the classroom component of the course not later than six (6) months after  
24 Respondent's initial enrollment. Respondent shall successfully complete any other component of  
25 the course within one (1) year of enrollment. The prescribing practices course shall be at  
26 Respondent's expense and shall be in addition to the continuing medical education (CME)  
27 requirements for renewal of licensure as a physician and surgeon.

28 A prescribing practices course taken after the acts that gave rise to the charges in the

1 Accusation but prior to the effective date of the Decision may, in the sole discretion of the Board  
2 or its designee, be accepted towards the fulfillment of this condition if the course would have  
3 been approved by the Board or its designee had the course been taken after the effective date of  
4 this Decision.

5 Respondent shall submit a certification of successful completion to the Board or its  
6 designee not later than 15 calendar days after successfully completing the course, or not later than  
7 15 calendar days after the effective date of the Decision, whichever is later.

8 3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective  
9 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to  
10 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education  
11 Program, University of California, San Diego School of Medicine (Program), approved in  
12 advance by the Board or its designee. Respondent shall provide the Program with any information  
13 and documents that the Program may deem pertinent. Respondent shall participate in and  
14 successfully complete the classroom component of the course not later than six (6) months after  
15 Respondent's initial enrollment. Respondent shall successfully complete any other component of  
16 the course within one (1) year of enrollment. The medical record keeping course shall be at  
17 Respondent's expense and shall be in addition to the CME requirements for renewal of licensure.

18 A medical record keeping course taken after the acts that gave rise to the charges in the  
19 Accusation but prior to the effective date of the Decision may, in the sole discretion of the Board  
20 or its designee, be accepted towards the fulfillment of this condition if the course would have  
21 been approved by the Board or its designee had the course been taken after the effective date of  
22 this Decision.

23 Respondent shall submit a certification of successful completion to the Board or its  
24 designee not later than 15 calendar days after successfully completing the course, or not later than  
25 15 calendar days after the effective date of the Decision, whichever is later.

26 4. PROFESSIONALISM COURSE. Within 60 calendar days of the effective date of  
27 this Decision, Respondent shall enroll in a professionalism/ethics course that meets the  
28 requirements of Title 16, California Code of Regulations (CCR) section 1358. Respondent shall

1 participate in and successfully complete that course. Respondent shall provide any information  
2 and documents that the course provider may deem pertinent. Respondent shall successfully  
3 complete the classroom component of the course not later than six (6) months after Respondent's  
4 initial enrollment, and the longitudinal component of the course not later than the time specified  
5 by the course provider, but no later than one (1) year after attending the classroom component.  
6 The professionalism course shall be at Respondent's expense and shall be in addition to the CME  
7 requirements for renewal of licensure.

8 A professionalism course taken after the acts that gave rise to the charges in the Accusation  
9 but prior to the effective date of the Decision may, in the sole discretion of the Board or its  
10 designee, be accepted towards the fulfillment of this condition if the program would have been  
11 approved by the Board or its designee had the program been taken after the effective date of this  
12 Decision.

13 Respondent shall submit a certification of successful completion to the Board or its  
14 designee not later than 15 calendar days after successfully completing the course or not later than  
15 15 calendar days after the effective date of the Decision, whichever is later.

16 5. CLINICAL TRAINING PROGRAM. Within 60 calendar days of the effective date  
17 of this Decision, Respondent shall enroll in a clinical training or educational program equivalent  
18 to the Physician Assessment and Clinical Education Program (PACE) offered at the University of  
19 California - San Diego School of Medicine (Program). Respondent shall successfully complete  
20 the Program not later than six (6) months after Respondent's initial enrollment unless the Board  
21 or its designee agrees in writing to an extension of that time.

22 The Program shall consist of a Comprehensive Assessment program comprised of a two-  
23 day assessment of Respondent's physical and mental health; basic clinical and communication  
24 skills common to all clinicians; and medical knowledge, skill, and judgment pertaining to  
25 Respondent's area of practice in which Respondent was alleged to be deficient and, at minimum,  
26 a 40 hour program of clinical education in the area of practice in which Respondent was alleged  
27 to be deficient and which takes into account data obtained from the assessment, the Decision, the  
28 Accusation, and any other information that the Board or its designee deems relevant. Respondent

1 shall pay all expenses associated with the clinical training program.

2 Based on Respondent's performance and test results in the assessment and clinical  
3 education, the Program will advise the Board or its designee of its recommendation(s) for the  
4 scope and length of any additional educational or clinical training, treatment for any medical  
5 condition, treatment for any psychological condition, or anything else affecting Respondent's  
6 practice of medicine. Respondent shall comply with Program recommendations.

7 At the completion of any additional educational or clinical training, Respondent shall  
8 submit to and pass an examination. Determination as to whether Respondent successfully  
9 completed the examination or successfully completed the Program's recommendations and  
10 requirements is solely within the Program's determination.

11 If Respondent fails to enroll, participate in, or successfully complete the clinical training  
12 program within the designated time period, Respondent shall receive a notification from the  
13 Board or its designee to cease the practice of medicine within three (3) calendar days after being  
14 so notified. The Respondent shall not resume the practice of medicine until enrollment or  
15 participation in the outstanding portions of the clinical training program has been completed. If  
16 Respondent did not successfully complete the clinical training program, Respondent shall not  
17 resume the practice of medicine until a final decision has been rendered on the accusation and/or  
18 a petition to revoke probation. The cessation of practice shall not apply to the reduction of the  
19 probationary time period.

20 6. PRACTICE MONITOR. Within 30 calendar days of the effective date of this  
21 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice  
22 monitor the name and qualifications of one or more licensed physicians and surgeons whose  
23 licenses are valid and in good standing, and who are preferably American Board of Medical  
24 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
25 relationship with Respondent or other relationship that could reasonably be expected to  
26 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
27 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
28 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

1 The Board or its designee shall provide the approved monitor with copies of the Decision  
2 and Accusation and a proposed monitoring plan. Within 15 calendar days of receipt of the  
3 Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement  
4 that she or he has read both the Decision and Accusation fully, understands the role of a monitor,  
5 and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the  
6 proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed  
7 statement for approval by the Board or its designee.

8 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
9 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall  
10 make all records available for immediate inspection and copying on the premises by the monitor  
11 at all times during business hours and shall retain the records for the entire term of probation.

12 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
13 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
14 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
15 shall cease the practice of medicine until a monitor is approved to provide monitoring  
16 responsibility.

17 The monitor(s) shall submit a quarterly written report to the Board or its designee which  
18 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
19 are within the standards of practice of medicine and whether Respondent is practicing medicine  
20 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the  
21 quarterly written reports to the Board or its designee within 10 calendar days after the end of the  
22 preceding quarter.

23 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
24 such resignation or unavailability, submit to the Board or its designee for prior approval the name  
25 and qualifications of a replacement monitor who will be assuming that responsibility within 15  
26 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
27 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
28 notification from the Board or its designee to cease the practice of medicine within three (3)

1 calendar days after being so notified. Respondent shall cease the practice of medicine until a  
2 replacement monitor is approved and assumes monitoring responsibility.

3 In lieu of a monitor, Respondent may participate in a professional enhancement program  
4 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the  
5 University of California, San Diego School of Medicine, that includes, at minimum, quarterly  
6 chart review, semi-annual practice assessment, and semi-annual review of professional growth  
7 and education. Respondent shall participate in the professional enhancement program at  
8 Respondent's expense during the term of probation.

9 7. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the  
10 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice  
11 where: 1) Respondent merely shares office space with another physician but is not affiliated for  
12 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that  
13 location.

14 If Respondent fails to establish a practice with another physician or secure employment in  
15 an appropriate practice setting within 60 calendar days of the effective date of this Decision,  
16 Respondent shall receive a notification from the Board or its designee to cease the practice of  
17 medicine within three (3) calendar days after being so notified. Respondent shall not resume  
18 practice until an appropriate practice setting is established.

19 If, during the course of the probation, Respondent's practice setting changes and  
20 Respondent is no longer practicing in a setting in compliance with this Decision, Respondent  
21 shall notify the Board or its designee within 5 calendar days of the practice setting change. If  
22 Respondent fails to establish a practice with another physician or secure employment in an  
23 appropriate practice setting within 60 calendar days of the practice setting change, Respondent  
24 shall receive a notification from the Board or its designee to cease the practice of medicine within  
25 three (3) calendar days after being so notified. Respondent shall not resume practice until an  
26 appropriate practice setting is established.

27 8. NOTIFICATION. Within seven (7) days of the effective date of this Decision,  
28 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the

1 Chief Executive Officer at every hospital where privileges or membership are extended to  
2 Respondent, at any other facility where Respondent engages in the practice of medicine,  
3 including all physician and locum tenens registries or other similar agencies, and to the Chief  
4 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
5 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
6 calendar days.

7 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

8 9. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is  
9 prohibited from supervising physician assistants.

10 10. OBEY ALL LAWS. Respondent shall obey all federal, state, and local laws and all  
11 rules governing the practice of medicine in California. Respondent shall remain in full  
12 compliance with any court ordered criminal probation, payments, and other orders.

13 11. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
14 under penalty of perjury on forms provided by the Board stating whether there has been  
15 compliance with all the conditions of probation.

16 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
17 of the preceding quarter.

18 12. GENERAL PROBATION REQUIREMENTS.

19 Compliance with Probation Unit

20 Respondent shall comply with the Board's probation unit and all terms and conditions of  
21 this Decision.

22 Address Changes

23 Respondent shall, at all times, keep the Board informed of Respondent's business and  
24 residence addresses, email address (if available), and telephone number. Changes of such  
25 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
26 circumstances shall a post office box serve as an address of record, except as allowed by Business  
27 and Professions Code section 2021(b).

28 Place of Practice



1 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
2 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
3 facility.

4 License Renewal

5 Respondent shall maintain a current and renewed California physician's and surgeon's  
6 license.

7 Travel or Residence Outside California

8 Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
9 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
10 (30) calendar days.

11 In the event Respondent should leave the State of California to reside or to practice  
12 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
13 departure and return.

14 13. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
15 available in person upon request for interviews either at Respondent's place of business or at the  
16 probation unit office, with or without prior notice, throughout the term of probation.

17 14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
18 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
19 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
20 defined as any period of time Respondent is not practicing medicine in California as defined in  
21 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
22 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
23 time spent in an intensive training program which has been approved by the Board or its designee  
24 shall not be considered non-practice. Practicing medicine in another state of the United States or  
25 Federal jurisdiction while on probation with the medical licensing authority of that state or  
26 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall  
27 not be considered as a period of non-practice.

28 In the event Respondent's period of non-practice while on probation exceeds 18 calendar

1 months, Respondent shall successfully complete a clinical training program that meets the criteria  
2 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and  
3 Disciplinary Guidelines" prior to resuming the practice of medicine.

4 Respondent's period of non-practice while on probation shall not exceed two (2) years.

5 Periods of non-practice will not apply to the reduction of the probationary term.

6 Periods of non-practice will relieve Respondent of the responsibility to comply with the  
7 probationary terms and conditions with the exception of this condition and the following terms  
8 and conditions of probation: 1) Obey All Laws; and 2) General Probation Requirements.

9 15. COMPLETION OF PROBATION. Respondent shall comply with all financial  
10 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
11 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
12 be fully restored.

13 16. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
14 of probation is a violation of probation. If Respondent violates probation in any respect, the  
15 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
16 carry out the disciplinary order that was stayed. If an Accusation or a Petition to Revoke  
17 Probation or an Interim Suspension Order is filed against Respondent during probation, the Board  
18 shall have continuing jurisdiction until the matter is final and the period of probation shall be  
19 extended until the matter is final.

20 17. LICENSE SURRENDER. Following the effective date of this Decision, if  
21 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
22 the terms and conditions of probation, Respondent may request to surrender his license. The  
23 Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
24 determining whether or not to grant the request, or to take any other action deemed appropriate  
25 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
26 shall within 15 calendar days deliver both his wallet and wall certificates to the Board or its  
27 designee and he shall no longer practice medicine. Respondent will then no longer be subject to  
28 the terms and conditions of probation. If Respondent re-applies for a medical license, the

1 application shall be treated as a petition for reinstatement of a revoked certificate.

2 18. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
3 with probation monitoring each and every year of probation, as designated by the Board, which  
4 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
5 California and delivered to the Board or its designee no later than January 31 of each calendar  
6 year.

7  
8  
9 ACCEPTANCE

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
11 discussed it with my attorney, Timothy J. Aspinwall. I understand the stipulation and the effect it  
12 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
13 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
14 Decision and Order of the Medical Board of California.

15  
16 DATED: 14 MARCH 2013

Alan Edward Bonsteel, M.D.  
17 ALAN EDWARD BONSTEEL, M.D.  
18 Respondent

19 I have read and fully discussed with Respondent Alan Edward Bonsteel, M.D. the terms  
20 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
21 Order. I approve its form and content.

22  
23 DATED: 3/14/13

Timothy J. Aspinwall  
24 TIMOTHY J. ASPINWALL  
25 Nossaman LLP  
26 Attorney for Respondent  
27  
28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: *March 22, 2013*

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JOSE R. GUERRERO  
Supervising Deputy Attorney General

  
DAVID CARR  
Deputy Attorney General  
*Attorneys for Complainant*

**Exhibit A**

**Accusation No. 12-2009-200652**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 DAVID CARR  
Deputy Attorney General  
4 State Bar No. 131672  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5538  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO DECEMBER 7 20 11  
BY K. MONTALVO ANALYST

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Medical Board Case No. 12-2009-200652

OAH Case No.

13 **ALAN EDWARD BONSTEEL, M.D.**

14 294 Cecilia Way  
15 Tiburon, CA 94920

**A C C U S A T I O N**

16 Physician's & Surgeon's Certificate A50164

17 Respondent.

18  
19  
20 Complainant alleges:

21 **PARTIES**

22  
23 1. Linda K. Whitney ("Complainant") brings this Accusation solely in her official  
24 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
25 Affairs.

26 2. The Medical Board of California issued Physician's & Surgeon's Certificate Number  
27 A 50164 to Alan Edward Bonsteel, M.D. ("Respondent") on November 20, 1991. The certificate  
28 will expire on July 31, 2013, unless renewed.

1 **JURISDICTION**

2 3. This Accusation is brought before the Medical Board of California ("the Board"),  
3 Department of Consumer Affairs, under the authority of the following laws. All section  
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2227 of the Code states:

6 "(a) A licensee whose matter has been heard by an administrative law judge of the Medical  
7 Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default  
8 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary  
9 action with the board, may, in accordance with the provisions of this chapter:

10 "(1) Have his or her license revoked upon order of the board.

11 "(2) Have his or her right to practice suspended for a period not to exceed one year upon  
12 order of the board.

13 "(3) Be placed on probation and be required to pay the costs of probation monitoring upon  
14 order of the board.

15 "(4) Be publicly reprimanded by the board. The public reprimand may include a  
16 requirement that the licensee complete additional relevant educational courses approved by the  
17 board.

18 "(5) Have any other action taken in relation to discipline as part of an order of probation, as  
19 the board or an administrative law judge may deem proper.

20 "(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical  
21 review or advisory conferences, professional competency examinations, continuing education  
22 activities, and cost reimbursement associated therewith that are agreed to with the board and  
23 successfully completed by the licensee, or other matters made confidential or privileged by  
24 existing law, is deemed public, and shall be made available to the public by the board pursuant to  
25 Section 803.1."

26 ///

27 ///

1           5.     Section 2234 states:

2           "The Division of Medical Quality<sup>1</sup> shall take action against any licensee who is charged  
3 with unprofessional conduct. In addition to other provisions of this article, unprofessional  
4 conduct includes, but is not limited to, the following:

5           "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
6 violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical  
7 Practice Act].

8           "(b) Gross negligence.

9           "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
10 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
11 the applicable standard of care shall constitute repeated negligent acts.

12           "(1) An initial negligent diagnosis followed by an act or omission medically appropriate for  
13 that negligent diagnosis of the patient shall constitute a single negligent act.

14           "(2) When the standard of care requires a change in the diagnosis, act, or omission that  
15 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
16 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
17 applicable standard of care, each departure constitutes a separate and distinct breach of the  
18 standard of care.

19           "(d) Incompetence.

20           "(e) The commission of any act involving dishonesty or corruption which is substantially  
21 related to the qualifications, functions, or duties of a physician and surgeon.

22           "(f) Any action or conduct which would have warranted the denial of a certificate.

23           "...."

24           6.     Section 2241 provides that a physician and surgeon may prescribe narcotics to an

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26           <sup>1</sup> Effective January 1, 2008, the Legislature abolished the divisions of the Medical Board  
27 of California. Under Business and Professions Code section 2002, any reference to the "Division  
28 of Medical Quality" or the "Division of Licensing" in the Medical Practice Act (Business and  
Professions Code section 2000 *et seq*) or any other provision of law now refers to the Medical  
Board.



1 addict for purposes of maintenance on, or detoxification from, controlled substances only in  
2 certain limited circumstances or in approved drug treatment centers as set out in Health and  
3 Safety Code section 11217.

4 7. Section 4022 defines “dangerous drug” as any drug unsafe for self-use in humans  
5 and includes any drug labeled as available by prescription only.

6 8. Section 2266 makes the failure of a physician to maintain adequate and accurate  
7 records relating to services provided to patients unprofessional conduct.

#### 8 9 **PRESCRIBED MEDICATIONS**

10 9. **Methadone** (methadone hydrochloride) is a synthetic narcotic with  
11 multiple actions similar to those of morphine. It is a dangerous drug as defined in section 4022  
12 and a schedule II controlled substance and narcotic as defined by the Health and Safety Code.  
13 Methadone can produce drug dependence of the morphine type and, therefore, has the potential  
14 for being abused. Psychic dependence, physical dependence, and tolerance may develop upon  
15 repeated administration of methadone, and it should be prescribed and administered with the  
16 same degree of caution appropriate to the use of morphine.

17 10. **Zoloft** (sertraline hydrochloride) is a selective serotonin re-uptake  
18 inhibitor (SSRI) chemically unrelated to other SSRIs, tricyclics, tetracyclics, or other  
19 antidepressive agents. It is a dangerous drug as defined by section 4022. Zoloft is used for the  
20 treatment of obsessive compulsive disorder and panic disorder as well as depression.

#### 21 **FIRST CAUSE FOR DISCIPLINE**

22 (Gross Negligence)

23 11. Respondent is subject to disciplinary action under section 2234(b) in that his care and  
24 treatment of patient P.M.<sup>2</sup> constituted gross negligence. The circumstances are as follows:

25 12. Respondent first saw patient P.M. on July 7, 2009 at the Marin Community Clinic.  
26 Marin Community Clinic was not an authorized drug treatment center. Respondent’s chart

27 <sup>2</sup> The patient is identified herein by initials to maintain confidentiality. The patient’s  
28 full name will be provided to Respondent upon request.

1 entries for P.M. note the chief complaints to be follow-up for a right shoulder blood clot and to  
2 discuss quitting his "med." Respondent entered the symbol for "none" under the chart note for  
3 current medications. In the portion of the chart reserved for patient history Respondent noted  
4 that P.M. was a heroin addict for the last 4 years. Respondent also noted in the progress notes  
5 that P.M. stated that he was depressed.

6 13. Respondent's chart entries pertaining to his physical examination of patient P.M.  
7 consist wholly of P.M.'s vital signs, his O2 reading, and 4 check marks indicating "normal" in the  
8 categories "Constitutional," "Chest," "Lungs," and "Heart." Respondent's assessment of P.M.  
9 states only: "HEROIN ADDICTION, I.V.D.A." and "DEPRESSION."

10 14. Respondent's recorded treatment plan for P.M.:

- 11 "(1) Old Records MGH Admission 2007-2008
- 12 "(2) CBC, CMP, HIV, Acute Hepatitis Panel
- 13 "(3) Drug Contract
- 14 "(4) Zoloft 50 Mg P.O. QD
- 15 "(5) Methadone 20 mg P.O. BID
- 16 "(6) Rtn 2 Wks
- 17 "(7) N.A. Counsel & Sponsor"

18 No mention of pain appears anywhere in Respondent's July 7, 2009 progress note entries  
19 for patient P.M. Respondent made no chart entries pertaining to P.M.'s history of intravenous  
20 drug abuse beyond stating the fact, made no reference as to any prior pain treatment, recorded no  
21 objective assessment of P.M.'s mental status, and did not document objective evaluation of any  
22 other relevant clinical conditions.

23 15. On this office visit Respondent wrote a prescription for P.M. for 120 tablets of  
24 Methadone 10 mg. and 30 tablets of Zoloft 50 mg. Despite the stated objectives of his written  
25 treatment plan, Respondent wrote no orders for additional tests nor made any referrals for  
26 consultations with any other health care providers. P.M. did not see Respondent again.

27 16. Respondent has subjected his license to discipline for unprofessional conduct under  
28 section 2234(b) in that his failure to refer P.M. to a physician authorized to treat drug addiction in

1 an approved drug treatment center was an extreme departure from the standard of care  
2 constituting gross negligence.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Prohibited Prescribing to an Addict)

5 17. The allegations of paragraphs 11 through 14 are incorporated herein by reference as if  
6 set out in full. Respondent has subjected his license to discipline for unprofessional conduct  
7 under section 2234(a) in that his prescribing Methadone to patient P.M. violated the prohibition  
8 of prescribing to an addict established by section 2241.

9 **THIRD CAUSE FOR DISCIPLINE**

10 (Failure to Maintain Adequate Medical Records)

11 18. The allegations of paragraphs 11 through 14 are incorporated herein by reference as if  
12 set out in full. Respondent has subjected his license to discipline for unprofessional conduct for  
13 failure to maintain adequate and accurate records of his care and treatment of patient P.M. by  
14 failing to make necessary chart entries pertaining to P.M.'s history of intravenous drug abuse  
15 beyond stating the fact, for failing to include in the chart notes significant information as to any  
16 prior pain treatment, for failure to include an objective assessment of P.M.'s mental status, and  
17 for failure to document objective evaluation of other existing relevant clinical conditions, in  
18 violation of section 2266.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
21 and that following the hearing, the Medical Board of California issue a decision:

22 1. Revoking or suspending Physician's & Surgeon's Certificate Number A50164, issued  
23 to Alan Edward Bonsteel, M.D.;

24 2. Revoking, suspending or denying approval of Alan Edward Bonsteel, M.D.'s  
25 authority to supervise physician assistants, pursuant to section 3527 of the Code;

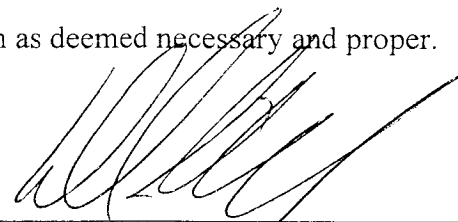
26 3. Ordering Alan Edward Bonsteel, M.D., if placed on probation, to pay the annual costs  
27 of probation monitoring; and

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4. Taking such other and further action as deemed necessary and proper.

DATED: December 7, 2011



LINDA K. WHITNEY  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*